DATE: **January 16, 2020**

TO: **WCA Governing Board**

FROM: **Jane Tsong, Project Manager**

THROUGH: **Mark Stanley, Executive Officer**

SUBJECT: **Item 11: Consideration of a resolution to ratify a Memorandum of Understanding/Management Agreement with Vasquez Ranch LLC for Vasquez Overlook (AIN 8684-024-001).**

RECOMMENDATION: That the Watershed Conservation Authority (WCA) Governing Board ratify a Memorandum of Understanding/Management Agreement with Vasquez Ranch, LLC for Vasquez Overlook (AIN 8684-024-001).

PROJECT DESCRIPTION: In November 2019, Watershed Conservation Authority authorized the Executive Officer to negotiate the acquisition of real property known as Vasquez Overlook (AIN 8684-024-001). This property is currently in escrow. The Memorandum of Understanding/Management Agreement documents the understanding between Watershed Conservation Authority and Vasquez Ranch LLC regarding activities of the Caretaker (Vasquez Ranch, LLC) on the property, and permits Vasquez Ranch ("Caretaker") to enter the property to perform specific definable activities.

The Agreement requires WCA to do the following:

1. If public access allowed, WCA will install a fence to protect the avocado groves of Vasquez Ranch. WCA will maintain the fence and gate. Vasquez Ranch will use agricultural practices that minimize erosion around the fence area.

2. If public access is allowed, WCA may negotiate with Vasquez Ranch a security and maintenance agreement for the public access route along the unpaved road.

3. The overlook will be referred to as "Art and Chema's Landing."

4. The unnamed portions of the trail will be referred to as "Vasquez Trail."

The Agreement requires Vasquez Ranch ("Caretaker") to do the following:

1. Caretaker may use vehicles on the unpaved road only if necessary for maintenance and security, and in doing so shall not interfere with public access.

2. Vasquez Ranch will continue to maintain the US flag and pole on the property at the Caretaker's own expense.

3. Caretaker will comply with the rules and regulations in the Mountains Recreation and Conservation Authority Park Ordinance.

4. Caretaker shall defend, indemnify and hold Owner hereunder from and against all claims, liabilities, losses, damages, costs and expenses incurred or suffered by Owner as a result of Caretaker's activities on the Property or violation of this Agreement.

5. Before entering the property, Caretaker shall obtain and show evidence of liability insurance, naming WCA as additional insured, in an amount not less than:

- Each Occurrence (Includes Bodily Injury and Property Damage)- $1,000,000
- Personal & Advertising Injury -$1,000,000
- Products/Completed Operations Aggregate - $1,000,000
- General Aggregate - $2,000,000
- Medical Payments - $5,000

See Exhibit A- Memorandum of Understanding/Management Agreement for complete language.

BACKGROUND:
The WCA received a grant award from the RMC's Proposition 68 program in November to acquire the parcel known as Vasquez Overlook (Vasquez II). Staff completed all due diligence activities in December and as a result the Vasquez Overlook property is currently in escrow with an expected closing date before the end of this month.

Vasquez lands form part of the scenic heritage of foothills communities and contribute to the scenic viewshed as one enters the San Gabriel River Canyon. Vasquez lands are included in the Glendora Ridge Biological Resource Area recommended as a city nature preserve in the City of Azusa's Open Space Element (5-16) and General Plan (OS-1). Vasquez lands are called out as priority parcels for conservation in the San Gabriel Mountains and Foothills Open Space Acquisition Master Plan, funded by RMC17019.

The Vasquez trail has relatively accessible grades and traverses a variety of ecotones on the way to several dramatic viewpoints that look over the Azusa plain and San Gabriel River Canyon. For these reasons, the Vasquez lands are well positioned for stewardship building and nature programming.

FISCAL INFORMATION: Pre-acquisition activities for Vasquez Overlook are funded by the existing grant RMC 16001.

MEMORANDUM OF UNDERSTANDING/MANAGEMENT AGREEMENT

This Memorandum of Understanding/Management Agreement ("Agreement") is dated December 16 2019, and is entered into by and between the WATERSHED CONSERVATION AUTHORITY ("Owner") and VASQUEZ RANCH, LLC, a California limited liability company ("Caretaker").

RECITALS

A. Owner is acquiring from Caretaker the land described on Exhibit "A" ("Property").

B. Owner and Caretaker desire to enter into this Agreement to document their understanding regarding activities of Caretaker on the Property, and permit Caretaker to enter the Property to perform them.

C. Owner and Caretaker generally desire that the Property be preserved and managed as open space for natural and recreational uses and for other compatible public uses.

NOW, THEREFORE, in consideration of the foreign recitals, the purchase by Owner and sale by Caretaker of the Property, and other consideration, the sufficiency of which is hereby acknowledged, Owner and Caretaker agree as follows:

AGREEMENT

1. Fence. Owner shall install a reasonable fence at the location described in Exhibit "B" to help protect avocado groves heretofore planted by Caretaker in the event Owner adopts a resolution that permits public use of all or any part of the Property. Caretaker shall use agricultural practices that minimize erosion around the fence area (such as retaining mulch and/or surface vegetation). The fence will include a gate at the unpaved road for use by Caretaker to reasonably manage and access the road. The fence (if and when installed) may be chain link. Owner shall maintain the fence and gate.

2. Security. Upon written request of Owner, Caretaker shall negotiate in good faith a separate security and maintenance agreement for Caretaker to provide security and maintenance for the unpaved road on the Property, which shall be subject to all existing recorded rights. It is contemplated that such security and maintenance will be necessary if the Owner permits public access over the road.

3. Access. Caretaker may make reasonable use of the unpaved road, subject to all existing recorded rights, but in using and managing the road and gate, Caretaker shall not interfere with public access permitted by Owner and Caretaker shall use vehicles on the road only if necessary for maintenance and security activities under Section 2.

4. Flag/Pole Maintenance. Caretaker shall have the right and obligation to maintain the United States flag and the flagpole on the Property (and replace the flag at least every twelve months unless such requirement is waived by the Executive Officer in writing) at Caretaker's cost and expense. If natural or other circumstances cause the flag pole to become unsafe, Caretaker will replace the flag pole at Caretaker's cost. Caretaker shall defend, indemnify and hold Owner harmless from and against any and all claims, liabilities, losses, damages, costs and expenses incurred or suffered by Owner as a result of any failure of the flag pole.

5. Art and Chema's Landing. Caretaker may continue to use the overlook known as Art and Chema's Landing. If Owner adopts a resolution permitting public access, Owner will consider replacing current structures with structures suitable for public use that might include seating and shade, with reasonable signage regarding the history of the land, and a permanent lettering describing the structure as "Art and Chema's Landing."

6. Owner's Use of Names. Owner shall use reasonable efforts to include the names "Art and Chema's Landing" and "Vasquez Trail" in signage installation and maps created by Owner for the Property.

7. Compliance With Laws and Rules/Regulations. Caretaker shall at all times comply with applicable laws and existing recorded documents in exercising its rights and performing its obligations hereunder. Caretaker shall also comply with the rules and regulations attached hereto as Exhibit "C", and with all additions thereto and modifications thereof upon notice by Owner of such additions and/or modifications.

8. Indemnity. Caretaker shall defend, indemnify and hold Owner hereunder from and against all claims, liabilities, losses, damages, costs and expenses incurred or suffered by Owner as a result of Caretaker's activities on the Property or violation of this Agreement.

9. Insurance. Prior to entering the Property, Caretaker shall obtain (and then maintain during the term of the Agreement) liability insurance with amounts set forth below, for the Property naming Owner as additional insured. Prior to entering the Property, Caretaker shall deliver reasonable evidence of such insurance (such as an insurance certificate) to Owner.

   The liability insurance is to be in amounts not less than the following:

   - Each Occurrence Includes Bodily Injury and Property Damage — $1,000,000
   - Personal & Advertising Injury — $1,000,000
   - Products/Completed Operations Aggregate — $1,000,000

- General Aggregate $2,000,000
- Medical Payments $5,000

10. Term. The term of this Agreement shall commence on the date on which Owner acquires the Property and shall continue until the date that is ninety nine (99) calendar years thereafter.

11. Time of Essence. Time is of the essence of every provision hereof in which time is a factor.

12. Severability. If any provision hereof is determined to be unenforceable, such unenforceability shall not affect any other provision of this Agreement.

13. Jurisdiction; Venue; Governing Law. Jurisdiction and venue with respect to any disputes or claims under this Agreement shall be in the Courts of the County of Los Angeles. The Agreement shall be governed by California law.

14. Assignment. Owner may assign this Agreement to any person or entity who acquires the Property. Caretaker may not assign this Agreement without the prior written consent of Owner.

15. Executive Officer Authority. The Executive Officer of Owner shall have the right to issue comments and approvals under this Agreement on behalf of Owner provided they are in writing, and may enter into non-substantial amendments of this Agreement on behalf of Owner provided they are in writing.

16. Entire Agreement. This Agreement is the entire agreement of the practices hereto with respect to the subject matter hereof.

17. Notices. Notices under this Agreement shall be in writing, and shall be sent by certified mail or reputable overnight delivery service, addressed as follows:

TO OWNER:	Watershed Conservation Authority 100 North Old San Gabriel Canyon Road Azusa, CA 71702 Attn: Executive Officer
TO CARETAKER:	Vasquez Ranch, LLC 1720 Ranch Road Azusa, CA 91702 Attn: Arthur Vasquez

18. Default: Termination/Partial Termination. If Caretaker defaults under this Agreement, and fails to cure the default within ten (10) business days after written notice from Owner, or if the lease between Owner as landlord, and Caretaker, as tenant for the avocado grove on the Property, is terminated due to a default by

Caretaker thereunder, then Owner may terminate this Agreement in whole or in part by written notice to Caretaker, and shall also have all rights and remedies available in law or equity (including rights to damage if applicable). Owner shall have the right to obtain injunctive relief without giving prior notice or a cure period.

19. Termination Upon Sale. Owner may terminate this Agreement by written notice to Caretaker upon any sale of the Property by Owner.

20. No Gratuities. No gratuity of any kind has been or will be given to any member or employee of Caretaker for this Agreement.

IN WITNESS WHEREOF, Owner and Caretaker have executed this Agreement as of the date first written above.

OWNER:

WATERSHED CONSERVATION AUTHORITY

By: _____
Print Name: Mark Stanley
Title: Executive Officer

CARETAKER:

VASQUEZ RANCH, LLC

By: _____
Arthur M. Vasquez, Sr.
Member

By: _____
Arthur M. Vasquez, Jr.
Member

EXHIBIT "A"

DESCRIPTION OF LAND

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 10 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF FILED IN THE DISTRICT LAND OFFICE.

EXHIBIT "B"

APPROXIMATE LOCATION OF FENCE

(See Attached Diagram.)

Exhibit B

Fence for protection of avocado trees

Draft fence line agreed on at November 21, 2019 meeting

Before public access to parcel 8684-024-001 occurs, WCA will install a fence on the West side of the access road from the Hilltop Drive entrance to protect the Vasquez avocado trees on parcel 8684-024-035. The fence will continue up the slope but will stop when the slope becomes steep.

The exact location of the fence in relation to the unpaved road may be adjusted due to required setbacks from road. A gate will be installed at the intersection to the unpaved trail that leads to the Vasquez driveway.

EXHIBIT "C"

RULES AND REGULATIONS

(Attached .)

Exhibit C

MOUNTAINS RECREATION AND CONSERVATION AUTHORITY

AN ORDINANCE OF THE MOUNTAINS RECREATION AND CONSERVATION AUTHORITY AMENDING THE MOUNTAINS RECREATION AND CONSERVATION AUTHORITY PARK ORDINANCE ESTABLISHING PARK RULES AND REGULATIONS AND PRESCRIBING THE PUNISHMENT FOR VIOLATION THEREOF

As amended June 1, 2016.

The Governing Board of the Mountains Recreation and Conservation Authority Ordains as follows:

The Mountains Recreation and Conservation Authority Park Ordinance is hereby amended to read as follows:

Chapter 1. General Provisions

§ 1.1. Definitions. As used in this Ordinance the following words have the meanings given below, unless the context indicates otherwise:

(a) "Administrative citation" means a notice of violation of this Ordinance processed pursuant to Chapter 6 herein.

(b) "Administrative compliance order" means a notice of violation of this Ordinance processed pursuant to Chapter 6 herein that requires the alleged violator to undertake certain actions to achieve compliance with the Ordinance.

(c) "Administrative costs" means all direct and indirect costs incurred by responsible persons as a result of an administrative citation and an administrative compliance order, including but not limited to, investigation, initial review, processing, attorneys fees, and costs relating to administrative hearings.

(d) "Administrative penalty" means the fine or penalty imposed on responsible persons for violations of this Ordinance resulting in administrative citations or administrative compliance orders.

(e) "Authority" is the Mountains Recreation and Conservation Authority established by joint exercise of powers agreement between the Santa Monica Mountains Conservancy and the Conejo Recreation and Park District and the Rancho Simi Recreation and Park District.

(f) "Chief Ranger" is the chief park ranger of the Authority.

(g) "Commercial use" is for-profit use by any person in any park or portion thereof. This also includes any park use that involves a financial transaction between one or more park users, and any promotional activity. Commercial use does not include the charging of a fee by the Authority that is used to defray the cost of park operations and

maintenance or any permitted use as described in § 3.22.

(h) "Days" means calendar days, unless otherwise indicated.

(i) "Enforcement authority" means the authority to enforce any law, ordinance, rule, regulation or resolution duly adopted and noticed by any jurisdiction where the Authority has management authority or where otherwise authorized by law or by agreement, contract, memorandum of understanding, or request for service.

(j) "Enforcement officer" means any Authority park ranger or other Authority employee with delegated authority to enforce the provisions of this Ordinance.

(k) "Executive Officer" is the Executive Officer of the Authority, who serves *ex officio*, as Executive Director of the Santa Monica Mountains Conservancy pursuant to § 10.1 of the Mountains Recreation and Conservation Authority Joint Exercise of Powers Agreement.

(l) "Filming" means motion picture, video, or still photography, using any imaging media whatsoever, other than casual imaging by park visitors unrelated to commercial use.

(m) "Management authority" of parklands, buildings, park improvements, roadways or public open space may be demonstrated by, but is not limited to, contracts, memoranda of understanding, cooperative agreements, requests for service, and governmental resolutions.

(n) "MRCA" is the acronym of Mountains Recreation and Conservation Authority.

(o) "Park" or "parkland" means any land, building, park improvement, roadway, or public open space owned in fee title or lesser interest, or subject to the Authority's management authority.

(p) "Park ranger" or "ranger" means any sworn Authority peace officer pursuant to Penal Code § 830.31(b).

(q) "Permit" is an entitlement for use issued by the Executive Officer or the Executive Officer's designee, including written letters of authorization. The Authority may charge a fee for a permit. The Executive Officer or the Executive Officer's designee may revoke permits at their discretion and without reimbursement if they determine that any provision of the permit has been violated.

(r) "Person" includes any individual, firm, association, organization, partnership, limited liability company, business trust, corporation, group, or company.

(s) "Post" or "posted" is a sign displayed in a conspicuous place at the primary entrance to the park giving notice, in summary form, of the rules, regulations, and special conditions applicable to use of the parkland. Signs giving notice of special conditions of use may be erected where necessary. A full copy of this Ordinance shall be available for inspection by members of the public at each office, ranger station, nature center, or visitor's center maintained by the Authority. When the Authority provides park ranger services pursuant to a contract with a public agency, that agency shall make available for inspection by members of the public a full copy of this Ordinance at its headquarters or at the agency's public website.

(t) "Responsible person" means any person or persons, as defined in § 1.1(r) who:

(1) Causes or materially contributes to the causation of a violation of this

Ordinance;
(2) Maintains or allows a violation of this Ordinance to continue by such person's action or inaction;
(3) Engages another person as an agent, employee, or independent contractor who causes or materially contributes to the causation of a violation of this Ordinance;
(4) Is an on-site manager of a business or project that causes or materially contributes to the causation of a violation of this Ordinance;
(5) Is a trustee or other person who is given legal authority to manage property in a manner that causes or materially contributes to the causation of a violation of this Ordinance;
(6) Is a parent or guardian having custody and control of a minor under the age of eighteen (18) who contributes to the causation of a violation of this Ordinance;
(7) Is the owner of, or who exercises control over, or any lessee or sublessee with the current right of possession of, real property, the improvement, modification, or alteration of which causes or materially contributes to the causation of a violation of this Ordinance; or
(8) Is the registered owner of a vehicle who has been cited for a violation of any section of Chapter 4 of this Ordinance.

(u) "Rim of the Valley Trail Corridor" means the geographic area described by reference in Public Resources Code § 33105.6.

(v) "Santa Monica Mountains Conservancy Zone" means the geographic area described in Public Resources Code § 33105.

(w) "Uniformed public officer" is a civilian Authority employee who has been authorized by the Executive Officer to enforce the provisions of this Ordinance pursuant to Public Resources Code § 5786.17(c).

§ 1.2. Purpose.

(a) The Mountains Recreation and Conservation Authority employs park rangers who are peace officers pursuant to Penal Code § 830.31(b) to protect the parks and other property of the Authority and preserve the peace therein. Authority rangers may, in addition to enforcing state law, local ordinances, this Ordinance, and conditions of use on parkland, may also enforce Public Resources Code §§ 33211.5 and 33211.6 for properties owned or subject to the management of the Santa Monica Mountains Conservancy pursuant to reciprocal management agreement(s) with the Santa Monica Mountains Conservancy. The Authority also employs uniformed public officers pursuant to Public Resources § 5786.17(c)) who are authorized to enforce the provisions of this Ordinance on parkland owned or managed by the Authority. In order to avoid confusion to the public and to ensure uniformity of management, where such a management agreement applies, this Ordinance shall be applicable to parkland of the Santa Monica Mountains Conservancy. The Authority, pursuant to contractual agreements to provide park ranger services to other public entities, may also enforce this Ordinance on parkland

or other property owned or managed by said public entities. This Ordinance may be enforced by any duly authorized California Peace Officer, or by a National Park Service Law Enforcement Ranger as authorized by California law.

(b) Outside the Santa Monica Mountains Zone and Rim of the Valley Trail Corridor, rangers of the Authority must rely exclusively on state law and local ordinances that in many instances do not provide sufficient protection for park visitors or the natural resources of parkland. The Authority finds that the adoption of the provisions of this Ordinance will provide additional enforcement authority needed to provide effective management of parkland.

§ 1.3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance.

§ 1.4. Applicability. Whenever in this Ordinance any act or omission is made unlawful it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

§ 1.5. Claims. Pursuant to § 935 of the California Government Code, all claims against the Authority for money or damages not otherwise governed by the Tort Claims Act, (California Government Code § 900 *et seq.*), or by another state law shall be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with § 900 thereof) for the claims to which that Part applies by its own terms, as those provisions now exist or shall hereafter be amended. All claims shall be made in writing and verified by the claimant or by the claimant's guardian, conservator, executor, or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by this section. In addition, all claims shall contain the information required by California Government Code § 910. In accordance with California Government Code §§ 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the Authority board prior to the filing of any action on such claims and no such action may be maintained by a person who has not complied with the requirements of this section. Any action brought against the Authority upon any claim or demand shall conform to the requirements of §§ 940 through 949 of the California Government Code. Any action brought against any employee of the Authority shall conform to the requirements of §§ 950 through 951 of the California Government Code.

§ 1.6. Service of citations, orders, and notices. All citations, orders, and notices required by this Ordinance may be served either by personal delivery thereof to the person to be notified or by deposit in the United States mail, in a sealed envelope, or postal card, postage prepaid, addressed to such person to be notified at the person's last known business or residence address as the same appears in the public records of the Authority or other records pertaining to the matter to which such notice is directed. Service by mail

shall be deemed to have been completed at the time of deposit in the postal service. Failure to receive any notice specified herein does not affect the validity of proceedings conducted hereunder.

Chapter 2. Management of Parkland

§ 2.0. Delegation of Management Authority. Except as otherwise stated, the Executive Officer of the Authority is delegated management of the parklands owned or managed by the Authority, and to that end the Executive Officer or the Executive Officer's designee may cause to be posted special conditions of use applicable to such parkland and suited to the unique conditions of each park. Where the Authority provides contract services to an agency or owner of certain parks or parkland, the agency or owner retains all management authority not otherwise provided by such contract or agreement. Under any such contract, the agency contracting for the Authority's services will retain all powers reserved to the Authority or its Executive Officer under this Ordinance only as it applies to parkland operation and management, including, but not limited to issuance of permits, park closures, and conditions of use.§ 2.1. Posted Conditions of Use. In addition to the general provisions as established in Chapter 3 of this Ordinance, no person shall violate the posted special conditions of use as established by the Executive Officer. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 2.2. Emergency closures. The Executive Officer or the Executive Officer's designee may close any parkland of the Authority by posting a notice of closure thereon where there is substantial risk of injury or loss of life caused by natural hazards or other emergency conditions. Any parkland so closed shall be reopened as soon as there is no longer a substantial danger of injury or loss of life. No person shall violate any posted notice of closure. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 2.3. Rain closures. The Executive Officer or the Executive Officer's designee may designate certain areas subject to an automatic forty eight (48) hour rain closure when such areas are prone to extensive damage following rainstorms. No person shall enter or remain upon any parkland subject to a rain closure. . Signage indicating a closure under this section will be posted at all affected parkland. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 2.4. Ejection from facilities.

(a) The Executive Officer or the Executive Officer's designee has the authority to eject and expel from any park any person who violates any provision of this Ordinance or is reasonably believed by the Executive Officer or the Executive Officer's designee, including but not limited to park rangers, to be violating this Ordinance and where there is a reasonable likelihood that the act or acts resulting in the violation will continue.

Exhibit C

(b) A person ejected or expelled from any parkland or facility may be excluded from the park in addition to or in lieu of being cited for violation of this Ordinance.

(c) Expulsion or ejection will not preclude the person being cited or arrested for conduct in violation of this Ordinance or other provisions of California law.

(d) No person being ejected or expelled pursuant to this section shall refuse or fail to leave as ordered, nor shall any person who has been so ejected or expelled return to the same park for 24 hours.

(e) Violation of an ejection order issued pursuant to this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3)

Chapter 3. General Rules and Regulations

§ 3.0. General. This Chapter establishes general rules and regulations applicable to all parkland; such rules and regulations shall be posted on the internet.

§ 3.1. Park hours. Parkland is closed from thirty (30) minutes after sunset to thirty (30) minutes before sunrise, unless different hours are otherwise posted. No person shall be present in or remain in or upon parkland during hours that the property is closed. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.2. Smoking, fires, and electronic vapor devices.

(a) Except where expressly permitted, no person shall smoke any substance on parkland. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1). Violation of this section on red flag or high fire risk days, as determined by the National Weather Service or any other governmental agency shall be punishable pursuant to § 5.0(a) § 6.2.1(b)(2).

(b) No person shall light or maintain any fire of any kind; provided, however, that the Executive Officer or the Executive Officer's designee may issue campfire permits and other special use permits for activities that might otherwise contravene this section if the Executive Officer or the Executive Officer's designee finds that adequate precautions will be taken by the permittee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3). Violation of this section on red flag or high fire risk days, as determined by the National Weather Service or any other governmental agency shall be punishable pursuant to § 5.0(a) § 6.2.1(b)(4).

(c) No person shall use a vaping, e-cigarette or electronic smoking device, regardless of the substance being smoked or vaporized. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.3. Alcohol. No person shall possess any alcoholic beverage, except pursuant to a permit issued by the Executive Officer or the Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

Exhibit C

§ 3.4. Littering and dumping.

(a) No person shall litter or leave any trash, garbage or refuse of any kind on parkland. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

(b) No person shall dump any earth, rocks, construction debris, cut vegetation, furniture, rubbish, or discarded materials of any kind or deposit any canister or other container on parkland. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3).

§ 3.5. Injury to parkland. No person not having a permit from the Executive Officer or the Executive Officer's designee shall encroach upon, injure, deface, damage, destroy, collect, harvest, construct upon, grade, or in any way alter the existing condition of any parkland or the property thereon. The Executive Officer or the Executive Officer's designee may issue permits for the limited taking or collecting of specimens for educational or scientific purposes or the alteration of parkland for management purposes; any person acting pursuant to such a permit, except contractors or employees of the Authority, shall have an original signed copy of the permit at all times, and shall display such permit upon the request of any employee of the Authority or any peace officer. A person is liable for a separate violation of this section for each day an unpermitted injury to property, as described herein, is maintained on parkland. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3).

§ 3.6. Wildlife.

(a) No person shall hunt, fish, or take wildlife, except that the Executive Officer or the Executive Officer's designee may designate and post fishing areas specifically developed for that purpose. Taking of wildlife shall have the same meaning as defined in the California Fish and Game Code § 86. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(4).

(b) No person shall feed or provide water for any wildlife on parkland or harass or willfully disturb wildlife by loud or unreasonable noise. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.7. Weapons. No person shall possess a firearm, bow and arrow(s), or any air or spring powered device capable of firing a projectile, including, but not limited to, any paint ball gun, BB gun or pellet gun. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3).

§ 3.8. Fireworks. No person shall use or possess any fireworks except by permit signed by the Executive Officer or the Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3).

§ 3.9. Dogs.

(a) The Authority finds that based on its own management experience and that of other park agencies it is in the public interest to strictly regulate the presence of dogs so

Exhibit C

as to provide for the comfort and safety of park visitors, protect against pollution, and minimize adverse impact on native wildlife.

(b) No person shall permit a dog to be off leash on parkland, except as provided herein. No person shall permit a dog to be out of that person's immediate control. For the purposes of this section, "immediate control" means that degree of control that would prevent any uninvited contact between the dog and any person. The fact that a dog may be on leash does not excuse the obligation to exercise immediate control over such animal. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

(c) The Executive Officer or the Executive Officer's designee may prohibit all dogs from entering any area of a park by posting a dog closure, and no person shall bring or permit a dog to enter a closed area. No person shall bring a dog onto parkland in violation of such posted rules or conditions. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

(d) No person shall bring an aggressive dog onto parkland. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

(e) No person shall bring a dog onto parkland which shall cause injury or damage to other persons or animals. Responsible persons bringing dogs onto parkland which cause injury or damage to other persons or animals shall be held liable for violations of this Ordinance. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(4).

(f) No person shall fail to clean up after any dog on parkland under that person's control or allow the dog's excrement to remain on parkland. Every person in possession of any dog must visibly carry the means to pick up and dispose of dog excrement at all times. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

(g) Where conditions permit, the Executive Officer or the Executive Officer's designee may post an area where dogs may be present off-leash so long as the owner or person in possession of the dog (1) exercises that degree of control that enables such person to recall the dog on command, and (2) carries a leash at all times so as to be able to restrain the dog if necessary. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

(h) No person may be in possession of more than three dogs, either on or off leash, at any time. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.10. Bicycle and motorized travel.

(a) No person shall operate a bicycle on a trail or other area that has been posted against bicycle use. The maximum speed limit for all bicycles shall be 15 miles per hour on any trail or otherwise permitted area. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

(b) No person shall operate a motor vehicle, motorcycle, motorized bicycle, electric bicycle, as defined in California Vehicle Code § 312.5, or motorized scooter anywhere other than on a paved roadway or parking lot unless specifically authorized by posted signage. Except as authorized by the Executive Officer or the Executive Officer's

Exhibit C

designee, no person shall operate any off-road vehicle, off-road motorcycle, or all terrain vehicle on parkland. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3).

(c) No person shall operate any bicycle, motor vehicle, motorcycle, electric bicycle motorized bicycle, or motorized scooter on parkland in a reckless or hazardous manner. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3).

(d) With respect to any facility designated by sign as a skate park provided on parkland for skateboarding, in-line skating, roller skating, bicycling, or non-motorized scootering, no person shall skateboard, in-line skate, roller skate, bicycle, or non-motorized scooter on or within parkland skating facilities without wearing a helmet, elbow and knee pads. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(a).

(e) Nothing contained in this section is intended to supersede or otherwise affect or conflict with any provision of federal, state, or local law related to access to parkland by disabled persons.

§ 3.11. Camping. No person shall camp on any parkland except by permit issued by the Executive Officer or the Executive Officer's designee. Camping areas shall be expressly designated and posted for that purpose. Any person or persons camping in a designated camping area shall, at all times, maintain the original signed permit in their possession and shall produce the permit at the request of any Authority personnel, ranger, or other peace officer. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.12. Closed areas. No person shall enter into or remain upon any area that has been closed to public use. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.13. Filming and park Impacts . No person shall, unless under permit from the Executive Officer or Executive Officer's designee or pursuant to posted signage, film, photograph, or otherwise make a recording on any parkland when to do so would damage or impair the natural features of any park; interfere with public enjoyment of the area; interfere with a permittee's authorized use of parkland; block access to trails, facilities, or public access points; necessitate the use of tripods, stands, reflectors or reflector holders; use flash or artificial lighting devices at night; use flash and lighting devices that are not handheld; or require the use of ladders or posing chairs. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.13.1. Commercial Use, Vending, Park Impacts.

(a) Except as allowed by § 3.13, no person shall use parkland for any commercial use without a permit issued by the Executive Officer or Executive Officer's designee. Commercial uses include, but are not limited to, fitness instruction, dog walking, food vending, commercial tour vehicle use, and ancillary services for filming. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

(b) Except as required by posted traffic control signs or pavement markings, no

Exhibit C

person shall stop or park a commercial tour vehicle on parkland without a permit issued by the Executive Officer or Executive Officer's designee. Commercial tour vehicles include, but are not limited to tour buses, charter buses, commercial shuttle buses, commercial passenger vans, commercial limousines and commercial town cars. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3).

§ 3.14. Nudity and Disrobing. No person shall appear, bathe, sunbathe, walk, change clothes, or disrobe in such manner that the person's genitals are exposed to public view. This section shall not apply to persons under the age of ten (10) years, provided such children are sufficiently clothed to conform to accepted community standards. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.15. Disruptive conduct. No person shall willfully disturb another person by loud and unreasonable noise, or any other activity that maliciously and willfully disturbs the peace of another person. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

§ 3.16. Powered hobby motors and rockets.

(a) No person shall operate any device, model or vehicle not otherwise described in this Ordinance, which utilizes a combustive fuel motor or rocket motor. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

(b) No person shall operate any model aircraft or other vehicle in a reckless or hazardous manner. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

§ 3.17. Flight, Aircrafts and Drones.

(a) Motorized or radio-controlled models. No person shall cause any motorized or radio-controlled model to enter or fly in, on or above parkland except in areas designated for such use, except by permit from the Executive Officer or Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

(b) Parachute. No person shall parachute into any park, except by permit signed by the Executive Officer or the Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

(c) Drones. No person shall cause any unmanned aerial vehicles (UAV), drones, or unmanned aircraft systems (UAS) (collectively "Drones") to enter or fly in, on or above any park without a permit issued by the Executive Officer or Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(3).

(d) Aircraft. No person shall Operate any aircraft, including but not limited to helicopters, passenger aircraft, hang gliders, parasails, and passenger balloons, on, in, or above any parkland without a permit issued by the Executive Officer or Executive Officer's designee. For the purposes of this Section, "Operate" shall be defined as the takeoff, launch, release, landing, flying below 500 feet above ground level, or navigating below 500 feet above ground level of any aircraft described hereunder. Violation of this

section is punishable pursuant to § 5.0(a) § 6.2.1(b)(4).

(e) Enforcement of this Section only is intended to be subject to any applicable preemption by state or federal laws or regulations regarding operation of aircraft in public airspace. The Authority finds that the Operation of aircraft and Drones without permission from the Authority below 500 feet above ground level is inherently dangerous to parkland wildlife and other assets.

§ 3.18. Trespass. No person shall trespass or otherwise enter onto, over, or under parkland in violation of this Ordinance or posted rules without the permission of Executive Officer or Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.19. Violations in specific jurisdictions. Any person who violates any law, ordinance, rule, regulation or resolution punishable as a misdemeanor or infraction, which has been duly adopted and noticed by any jurisdiction with authority over any public open space, park, parkland, forest, recreation area, scenic parkway, scenic highway, trail or roadway in which the Authority has enforcement authority, is guilty of a misdemeanor or an infraction, but shall not be punishable to any degree greater than allowable under the underlying provision. A list of such violations need not be posted. The citation will state this section number, the section of the underlying provision, and a short description of the violation. As an alternative to prosecution, violation of this section is punishable by administrative penalty pursuant to this Ordinance.

§ 3.20. Special Provision Applicable to parkland of the Authority within the City of Malibu. The Authority finds that special provisions are necessary for parkland within the City of Malibu in order to reassure the public that nothing in this Ordinance is intended, nor shall it be construed to, supersede any provision of any permit or plan adopted by the California Coastal Commission within the jurisdiction of the City of Malibu, including, without limitation, any duly adopted public works plan as defined in Division 20 of the Public Resources Code

§ 3.21. Permitted Public Use. Use of parkland for events that would restrict use of any parkland or park facility by members of the public not otherwise addressed in this Ordinance shall require a permit for such use from the Executive Officer or Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

3.22. Trails and paths.

(a) No person shall construct, alter or cut new trails unless permitted to do so by the Executive Officer or the Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

(b) No person shall walk, hike, bike, ride, or otherwise travel off of authorized trails or outside of areas designated for public access in any parkland where an official trail

map is posted at mapped trailheads, unless permitted to do so by the Executive Officer or the Executive Officer's designee. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(1).

§ 3.23. Persons using parkland for a purpose that requires a permit, as described in § 1.1(q), shall have the original signed permit in their possession and shall display such permit at the request of any Authority personnel, ranger, or other peace officer. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(a).

Chapter 4. Vehicle Use

§ 4.0. Traffic control. No person shall drive any vehicle, as defined in the California Vehicle Code, upon any parkland, roadway or parking areas except upon, and subject to, any posted traffic control signs or pavement markings. Traffic control signs include, but are not limited to, stop signs, speed limit signs, directional signs, turning signs, road closure signs, road hours of operation signs, commercial truck restrictions, and signs limiting vehicle use on trails. Traffic control pavement markings include curb markings, limit lines, lane dividing lines and parking stall lines. The speed limit for vehicles operating on parkland owned or managed by the Authority is fifteen (15) miles per hour, unless otherwise posted. Radar enforcement is authorized on roadways in which a traffic engineer has determined the safe maximum speed limit.

§ 4.1. Parking control.

(a) No person shall park any vehicle upon any parkland except upon, and subject to, any posted parking regulation sign. Parking control signs include, but are not limited to, designated parking area, no parking, and no unauthorized vehicle use signs.

(b) No person shall stop or park a vehicle in an area designated as a no stopping or standing zone.

(c) No person shall park or stop a vehicle in a manner that blocks or hinders emergency vehicle access.

(d) Violation of this section shall be enforceable as a civil penalty pursuant to § 5.2 below.

§ 4.2. Liability.

(a) Except as provided herein, the registered owner and driver, rentee, or lessee of a vehicle cited for any violation of §§ 4.0 and 4.1 shall be jointly liable for penalties imposed under this Ordinance, unless the owner can show that the vehicle was used without consent of that person, express or implied. An owner who pays any administrative penalties or parking fines pursuant to this Ordinance shall have the right to recover the same from the driver, rentee, or lessee.

(b) The driver of a vehicle who is not the owner thereof but who uses or operates the vehicle with the express or implied permission of the owner shall be considered the agent of the owner to receive citations served in accordance with this Ordinance and may

Exhibit C

contest the citation.

§ 4.3. Automated motor vehicle enforcement.

(a) "Automated motor vehicle enforcement" is any photographic or video equipment linked to any violation detection system that synchronizes the taking of a photograph, video, or digital image with the occurrence of a violation of §4.0.

(b) "Currently registered vehicle owner" is the person identified by motor vehicle registration as the registered owner of the vehicle.

(c) "Citation" is the administrative citation and shall include the following:

(1) The name and address of the currently registered owner of the vehicle;

(2) The registration plate number of the motor vehicle involved in the violation;

(3) The violation charged;

(4) The time and location of the violation;

(5) The amount of the administrative penalty imposed and the date by which the administrative penalty should be paid, and

(6) A sworn statement signed by the officer or employee of the Authority that based on inspection of the recorded images, the subject motor vehicle was being operated in violation of § 4.0.

§ 4.3.1. Automated motor vehicle enforcement citation procedure. Prior to issuance of a citation for violation of § 4.0, a park ranger shall examine the photographic or video equipment recordings authorized under this Ordinance to determine whether an offense has occurred. If the park ranger determines that an offense has occurred and the license plate number or other source of identification of the ownership of the offending vehicle can be established, the ranger may issue an administrative citation to the registered owner, and any other liable party pursuant to § 4.2, within thirty (30) calendar days of the offense. Pursuant to § 4.2, if the registered owner satisfactorily proves to the hearing officer that the owner is not liable, the Authority may reissue the citation to any party who may be jointly liable under this Ordinance. The reissued citation shall be mailed to remaining liable parties no later than thirty (30) calendar days from the date of the administrative order of the hearing officer.

§ 4.3.2. Administrative appeal of automated motor vehicle citation.

(a) At an administrative hearing regarding any automated motor vehicle citation, a copy of the citation alleging the violation along with a copy of the image that served as a basis of the citation shall be prima facie evidence of the facts contained therein and shall be admissible in a proceeding alleging a violation under this section.

(b) If a prima facie case has been established, the hearing officer may consider any and all legal and factual defenses, including, but not limited to the following:

(1) That the automated motor vehicle enforcement system was not operating properly at the time of the offense;

(2) That the license plate number or other source of identification of the vehicle cannot be determined;

(3) That the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred;
(4) That the vehicle was operated without the consent of the registered vehicle owner pursuant to § 4.2(a);
(5) The lawfulness of this Ordinance, and
(6) That other extenuating circumstances were present during the incident which, in the interest of justice, requires dismissal.

§ 4.4. Dismissal of citation. In the interest of justice, the Authority staff counsel or other attorney representing the Authority may, at any point after the issuance an administrative order under this Ordinance, cause the underlying citation to be vacated and dismiss all pending enforcement actions. The Authority shall provide written notice of dismissal to any person in receipt of a citation. Within sixty (60) days of the date of dismissal, the Authority shall process a refund of any advance deposit made by citation recipient.

Chapter 5. Penalty for Violations

§ 5.0. Violations.

(a) Unless otherwise specified, any violation of any provision of this Ordinance shall be a misdemeanor punishable by a maximum fine of one thousand dollars($1,000), or imprisonment in the county jail for six months, or both such fine and imprisonment, pursuant to Public Resources Code § 5786.17.

(b) Where indicated, certain violations of this Ordinance shall be an infraction punishable by: (1) a fine of not more than one hundred dollars ($100); (2) a fine not exceeding two hundred dollars ($200) for a second violation of the same section of this Ordinance within one year; (3) a fine not exceeding five hundred dollars ($500) for each additional violation of the same section of this Ordinance within one year.

§ 5.1. Traffic control violations.

(a) Any violation of § 4.0 shall be punishable as infraction and is subject to penalties pursuant to § 5.0(b).

(b) Imposition of liability for violation of § 4.0 by automated motor vehicle enforcement shall not be considered a violation under the California Vehicle Code, shall not be deemed a conviction as an operator, and shall not be made part of the operating record upon whom such liability is imposed. No points authorized by the California Vehicle Code ("Point System for License Suspension") shall be assigned to the owner or driver of the vehicle for violation of § 4.0 enforced by means of automated motor vehicle enforcement. The fine for any violation of the § 4.0 enforced by automated motor vehicle enforcement shall not exceed one hundred dollars ($100).

§ 5.2. Parking violation fines.

(a) Violation of any parking sign as provided in § 4.1(a) of this Ordinance shall be subject to an administrative or civil penalty of not more than seventy dollars ($70).

Exhibit C

(b) Any violation of §§ 4.1(b) or 4.1(c) of this Ordinance shall be subject to an administrative or civil penalty of not more than eighty eight dollars ($88).

§ 5.3. Reduction of misdemeanor to infraction. Any violation punishable as a misdemeanor shall be reduced to an infraction if the prosecuting attorney files a complaint in the superior court specifying that the offense is an infraction or if the prosecuting attorney makes a motion to reduce a misdemeanor charge to an infraction prior to trial on the matter. Any person convicted of the offense after a reduction shall be punished by: (1) a fine not exceeding one hundred dollars ($100) for a first violation; (2) a fine not exceeding two hundred dollars ($200) for a second violation of the same section of this Ordinance within one year, and (3) a fine not exceeding five hundred dollars ($500) for each additional violation of the same section of this Ordinance within one year.

§ 5.4. Separate offense. Each person is guilty of a separate offense for each and every day during any portion of which any violation of this ordinance is committed, continued, maintained, or permitted by such person and shall be punished accordingly.

§ 5.5. Use of administrative remedies.

(a) In addition to all other remedies available to the Authority, the Authority may pursue administrative remedies pursuant to Chapter 6 for both misdemeanor and infraction violations of this Ordinance, as authorized pursuant to Government Code § 53069.4. Use of administrative remedies shall be at the sole discretion of the Authority and its authorized representatives. Payment of administrative penalties or administrative costs shall not bar criminal enforcement proceedings for any continuation or repeated occurrence of any violation.

(b) The penalty for any violation of this Ordinance that would otherwise be an infraction, and which is enforced through administrative remedies pursuant to Government Code § 53069.4, shall not exceed the maximum fine or penalty amounts for infractions set forth in § 5.0(b) and § 6.2.1(a).

(c) The penalty for any violation of this Ordinance that would otherwise be a misdemeanor, and which is enforced through administrative remedies pursuant to Government Code § 53069.4, shall be punishable as set forth in § 6.2.1(b) for each individual occurrence of said violation.

(d) In addition to the payment of any administrative penalties and costs imposed herein, violations enforced pursuant to Chapter 6 of this Ordinance may also require compliance with the conditions outlined in an administrative compliance order issued by the Authority and an administrative order issued by an administrative hearing officer.

§ 5.6. Remedies for injury to parkland. In addition to penalties and costs authorized under this Ordinance, the measure of damages and the remedy for any violation of this Ordinance that results in an injury to parkland or any Authority property shall include the restoration of the parkland to its condition immediately prior to the violation or restitution

payment of an amount equal to the actual cost of said restoration, including administrative costs.

§ 5.7. Remedies cumulative. Except as expressly stated in this Ordinance, the remedies provided in this Ordinance are cumulative and are in addition to any other remedies and penalties available under this Ordinance and the laws of the State of California and the United States.

Chapter 6. Administrative Remedies

§ 6.1. Parking citations.

(a) Authorization. This section provides for the issuance of administrative parking citations, as authorized pursuant to Government Code § 53069.4.

(b) Contents of administrative parking citation. Each administrative parking citation shall contain the following information: the date of the violation; the address or description of the location of the violation; the section or sections of this code violated and a description of the acts or omissions constituting the violation; the amount of the penalty for the code violation; a description of the penalty payment process, including a description of the time within which and the place to which the penalty shall be paid, and the name of the citing enforcement officer. A notice of a right to a hearing, including the time within which the administrative citation may be contested, and how to request a hearing, will be provided at the time of citation.

§ 6.1.2. Parking citation process – initial review. For a period of twenty one (21) calendar days from the issuance of a notice of parking violation or fourteen (14) calendar days from the mailing of a notice of delinquent parking violation, any person in receipt of a parking citation may request an initial review of the citation by the Authority and either in writing, in person, or telephonically. The Authority shall have the authority to dismiss citation, if, following the initial review, it is determined that a) the violation did not occur, or b) a dismissal is in the interest of justice. The results of the initial review will be mailed to the person contesting the citation.

§ 6.1.3. Parking citation process – administrative review.

(a) If the person in receipt of a parking citation is dissatisfied with the results of the initial review, that person may make a written request for an administrative hearing of the violation within twenty one (21) calendar days following the mailing of the results of the Authority's initial review. All requests for administrative hearings must be accompanied by an advance deposit equal to the amount of the parking citation fine, payable as indicated by the citation or subsequent notices. An administrative hearing shall be held within sixty (60) days of receipt by the Authority of any valid request. The request for hearing will be considered complete only upon receipt of written request and advance deposit, or advance deposit hardship waiver pursuant to subsection (b).

(b) Advance deposit hardship waiver. In lieu of the advance deposit, any person who requests a hearing to contest an administrative parking citation may request in writing an advance deposit hardship waiver, including the reasons for the request. The Executive Officer or the Executive Officer's designee may issue an advance deposit

Exhibit C

hardship waiver if satisfied that the person is unable to deposit the full amount of the penalty in advance of the hearing. The Executive Officer or the Executive Officer's designee shall issue a written determination of whether to issue the advance deposit hardship waiver. The written determination shall be final, subject only to judicial review as provided by law. If the Executive Officer or the Executive Officer's designee determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the Authority within ten (10) calendar days of the date of that decision in order to secure the hearing.

(c) Payment of administrative parking citation penalties. Any person who has not made a deposit pursuant to subsection (a) of this Section who is found liable for the underlying violation by the administrative hearing officer shall remit the balance of the full administrative penalties due within twenty (20) days following the mailing of the administrative order.

§ 6.1.4. Hearing officer. All hearings on administrative parking citations shall be heard and conducted by a hearing officer. The Executive Officer or the Executive Officer's designee shall designate a hearing officer for administrative hearings who shall not be the citing enforcement officer and who shall be an attorney licensed to practice law in the State of California or a retired judicial officer of the State of California. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative penalties or the rulings upheld, revised or otherwise issued by the hearing officer.

§ 6.1.5. Notice and time of hearing for administrative parking citation hearings. Written notice of hearing shall be served on any person to whom the citation was addressed pursuant to § 6.1 and shall contain the date, time, and place at which the hearing shall be conducted. The hearing shall be set for a date that is not less than fifteen (15) calendar days from the date of the mailing of the notice of hearing. The hearing must be held within sixty (60) calendar days of the receipt by the Authority of the advance deposit and request of the hearing by recipient of an administrative parking citation. The hearing officer may approve a continuance of the hearing to any date for good cause.

§ 6.1.6. Hearing procedure.

(a) Evidence and testimony. All oral and written evidence presented at the hearing shall be presented under oath and under the penalty of perjury, except that the administrative citation and any additional report submitted by the park ranger, shall be admissible and shall constitute prima facie and presumptive evidence of the respective facts contained in those documents. At the hearing, the alleged responsible person shall have the opportunity to testify, present evidence, and to cross-examine witnesses concerning the administrative parking citation. The alleged responsible person may appear personally or through an attorney. Telephonic appearances may be allowed at the discretion of the hearing officer. Prehearing discovery is not authorized. The Authority and alleged responsible persons are authorized by this Ordinance to subpoena relevant witnesses and documents in accordance with policies and procedures established by the Governing Board of the Authority. Disobedience of such subpoenas, or the refusal to

Exhibit C

testify (upon other than constitutional grounds), shall constitute a misdemeanor violation of this Ordinance. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence, the hearing officer may consider and make findings in any manner which will provide a fair hearing, and may continue the hearing to obtain additional evidence. Unless otherwise required, the presence of the issuing ranger at the hearing is not mandatory.

(b) Hearing by written declaration. In lieu of personal appearance, any alleged responsible person subject to an administrative parking citation may elect to proceed with an administrative hearing by written declaration signed under penalty of perjury. The Executive Officer or the Executive Officer's designee shall prescribe the procedures to be followed when a hearing is conducted by written declaration.

(c) Failure to appear. The unexcused failure of any alleged responsible person to appear at the hearing after proper notice or, in the alternative, to present written or demonstrative evidence shall constitute an admission of the violation by the alleged responsible person and an exhaustion of administrative remedies that may bar judicial review. Refusal to participate in said hearing through one of the methods prescribed herein or engaging in behavior disruptive to the hearing may, at the sole discretion of the hearing officer, constitute failure to appear for the purposes of this section.

(d) Withdrawal of hearing request. Any person who has requested a hearing on the issuance of an administrative parking citation may withdraw said request upon written notice to the Authority. A withdrawal under this section shall constitute a forfeiture of any advance deposit of administrative penalty or costs and shall constitute a waiver of any right to challenge the underlying administrative citation. A withdrawal under this section shall also be a bar to judicial review of the administrative parking citation for failure to exhaust administrative remedies.

§ 6.1.7. Administrative order – administrative parking citations issued pursuant to § 6.1.

(a) Decision of the hearing officer. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall determine if the responsible person is liable for the underlying violation by a preponderance of the evidence. The hearing officer shall issue a written administrative order, including findings regarding the existence of each violation and notice of the right to judicial review, at the hearing or within thirty (30) calendar days following completion of the hearing. The responsible person shall be served with a copy of the administrative order at the hearing or within ten (10) calendar days following its issuance. The administrative order shall be final upon service on the responsible person, subject only to judicial review as allowed by law.

(b) Penalty. If the hearing officer determines that the responsible person committed the violation alleged by a preponderance of the evidence, the hearing officer shall assess the administrative penalty specified on the citation pursuant to this Ordinance. In cases of extreme hardship or in the interest of justice the hearing officer may reduce or suspend the administrative parking citation penalty. The hearing officer shall set a date the penalty shall be due and payable, which date shall ordinarily be thirty (30) calendar days from date of service of the administrative order, unless for good cause the hearing officer extends such date. If the hearing officer finds that the administrative citation should not be sustained or that the amount of the administrative penalty should be reduced, the

Authority shall refund the amount within thirty (30) calendar days of the order.

§ 6.1.8. Failure to pay administrative parking citation penalties and failure to comply with administrative order.

(a) Administrative parking citation penalties shall be due by the date specified in an administrative order issued pursuant to § 6.1.7. Failure to pay the assessed penalties by the date specified in the citation will result in a notice of delinquency. Failure to pay the fine by the date specified in the notice of delinquency will result in a doubling of the citation amount. Unpaid fines may be enforced as a personal obligation of the responsible person, which shall remain in effect until all of the administrative penalties, interest and all other applicable costs are paid in full and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers. Unpaid administrative penalties and costs may be reported to appropriate credit reporting agencies.

(b) Lien procedure. Upon the responsible person's failure to pay administrative parking citation penalties as ordered by the hearing officer or by the superior court, the Authority may record a judgment lien against responsible person's real property pursuant to Code of Civil Procedure §§ 674 and 697.310, *et seq.*

§ 6.1.9. Judicial review. Any person subject to a decision of the hearing officer may obtain judicial review of the decision in the superior court pursuant to the provisions of California Government Code § 53069.4.

§ 6.2. Administrative citations.

(a) Authority. This section provides for the issuance of administrative citations, as authorized pursuant to Government Code § 53069.4. As an alternative enforcement method, a park ranger may issue an administrative citation for any violation of this Ordinance. The administrative penalties and costs prescribed herein may be sought in addition to any other legal remedies, including, but not limited to, criminal penalties, injunctive relief, specific performance, civil damages, and any other remedy which may be pursued by the Authority to address any violation of this Ordinance. The issuance of administrative citations and administrative compliance orders shall not be deemed a waiver of any other enforcement remedies available at law to the Authority. The use of the remedies and procedures of this section shall be at the sole discretion of the Authority.

(b) Contents of administrative citation. Each administrative citation shall contain the following information: the date of the violation; the address or description of the location of the violation; the section or sections of this code violated and a description of the acts or omissions constituting the violation; the amount of the penalty for the code violation; a description of the penalty payment process, including a description of the time within which and the place to which the penalty shall be paid, and the name of the citing enforcement officer. A notice of a right to a hearing, including the time within which the administrative citation may be contested, and how to request a hearing, will be provided at the time of citation.

Exhibit C

§ 6.2.1. Administrative citation penalty.

(a) Infractions. The amount of the administrative penalty for each violation of a section of this Ordinance otherwise punishable as an infraction shall be (1) a fine of not more than one hundred dollars ($100); (2) a fine not exceeding two hundred dollars ($200) for a second violation of the same section of this Ordinance within one year; (3) a fine not exceeding five hundred dollars ($500) for each additional violation of the same section of this Ordinance within one year. Each person is guilty of a separate offense for each and every day during any portion of which any violation of this Ordinance is committed, continued, maintained, or permitted by such person and shall be punished accordingly. Failure to pay the assessed administrative penalties specified in the citation may be enforced as a personal obligation of the person responsible for payment and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers.

(b) Misdemeanors.

(1) The amount of the administrative penalty for each violation of this Ordinance otherwise punishable as a misdemeanor under this subdivision shall be one hundred seventy five dollars ($175), a fine not exceeding two hundred fifty dollars ($250) for a second violation of the same section of this Ordinance within one year, and a fine not exceeding five hundred dollars ($500) for each additional violation within one year;

(2) The amount of the administrative penalty for each violation of this Ordinance punishable under this subdivision shall be two hundred fifty dollars ($250), a fine not exceeding five hundred dollars ($500) for a second violation of the same section of this Ordinance within one year, and a fine not exceeding one thousand dollars ($1000) for each additional violation within one year;

(3) The amount of the administrative penalty for each violation of this Ordinance punishable under this subdivision shall be five hundred dollars ($500), and a fine not exceeding one thousand dollars ($1000) for each additional violation within one year;

(4) The amount of the administrative penalty for each violation of this Ordinance punishable under this subdivision shall be one thousand dollars ($1000);

(c) Each person is guilty of a separate offense for each and every day during any portion of which any violation of this Ordinance is committed, continued, maintained, or permitted by such person and shall be punished accordingly. Failure to pay the assessed administrative penalties specified in the citation may be enforced as a personal obligation of the person responsible for payment and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers.

(d) Reduction of misdemeanors. Notwithstanding anything contained herein, in the interest of justice, any violation of this Ordinance otherwise punishable as a misdemeanor may be subject to a reduced administrative penalty pursuant to § 6.2.1(a) at the sole discretion of the Authority.

§ 6.2.2. Administrative citation hearing.

(a) Request for administrative citation hearing. Any recipient of an administrative citation pursuant to § 6.2 may contest it before the hearing officer by requesting a hearing in writing and submitting an advance deposit of the administrative penalty within thirty (30) calendar days from the date the administrative citation is served. The request for hearing

will be considered complete only upon receipt of written request and advance deposit, or advance deposit hardship waiver pursuant to subsection (b).

(b) Advance deposit – traffic control violations. Notwithstanding subsection (a) above, the advance deposit required to secure a hearing on any administrative citation issued for a violation of § 4.0 shall not exceed twenty five percent (25%) of the total administrative penalty.

(c) Advance deposit hardship waiver. In lieu of the advance deposit, any person who requests a hearing to contest an administrative citation may request in writing an advance deposit hardship waiver, including the reasons for the request. The Executive Officer or the Executive Officer's designee may issue an advance deposit hardship waiver if satisfied that the person is unable to deposit the full amount of the penalty in advance of the hearing. The Executive Officer or the Executive Officer's designee shall issue a written determination of whether to issue the advance deposit hardship waiver. The written determination shall be final, subject only to judicial review as provided by law. If the Executive Officer or the Executive Officer's designee determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the Authority within ten (10) calendar days of the date of that decision in order to secure the hearing.

(d) Payment of administrative penalties. Any person who has made a partial deposit pursuant to subsection (b) of this Section or has received an advance deposit hardship waiver pursuant to subsection (c) of this Section who is found liable for the underlying violation by the administrative hearing officer shall remit the balance of the full administrative penalties pursuant to the administrative Order.

§ 6.2.3. Hearing officer. All hearings on administrative citations shall be heard and conducted by a hearing officer. The Executive Officer or the Executive Officer's designee shall designate a hearing officer for administrative hearings who shall not be the citing enforcement officer and who shall be an attorney licensed to practice law in the State of California or a retired judicial officer of the State of California. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative penalties or the rulings upheld, revised or otherwise issued by the hearing officer.

§ 6.2.4. Notice and time of hearing –administrative citation hearings. Written notice of hearing shall be served on any person to whom the citation was addressed pursuant to § 6.2 and shall contain the date, time, and place at which the hearing shall be conducted. The hearing shall be set for a date that is not less than fifteen (15) calendar days from the date of the mailing of the notice of hearing. The hearing must be held within sixty (60) calendar days of the request of the hearing by recipient of an administrative citation. The hearing officer may approve a continuance of the hearing to any date for good cause.

§ 6.2.5. Hearing procedure.

(a) Evidence and testimony. All oral and written evidence presented at the hearing shall be presented under oath and under the penalty of perjury, except that the administrative citation and any additional report submitted by the park ranger, shall be admissible and shall constitute prima facie and presumptive evidence of the respective

facts contained in those documents. At the hearing, the alleged responsible person shall have the opportunity to testify, present evidence, and to cross-examine witnesses concerning the administrative citation. The alleged responsible person may appear personally or through an attorney. Telephonic appearances may be allowed at the discretion of the hearing officer. Prehearing discovery is not authorized. The Authority and alleged responsible persons are authorized by this Ordinance to subpoena relevant witnesses and documents in accordance with policies and procedures established by the Governing Board of the Authority. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor violation of this Ordinance. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence. The hearing officer may consider and make findings in any manner which will provide a fair hearing, and may continue the hearing to obtain additional evidence. Unless otherwise required, the presence of the issuing ranger at the hearing is not mandatory.

(b) Hearing by written declaration. In lieu of personal appearance, any alleged responsible person subject to an administrative citation may elect to proceed with an administrative hearing by written declaration signed under penalty of perjury. The Executive Officer or the Executive Officer's designee shall prescribe the procedures to be followed when a hearing is conducted by written declaration.

(c) Failure to appear. The unexcused failure of any alleged responsible person to appear at the hearing after proper notice or, in the alternative, to present written or demonstrative evidence shall constitute an admission of the violation by the alleged responsible person and an exhaustion of administrative remedies that may bar judicial review. Refusal to participate in said hearing through one of the methods prescribed herein or engaging in behavior disruptive to the hearing may, at the sole discretion of the hearing officer, constitute failure to appear for the purposes of this section.

(d) Withdrawal of hearing request. Any person who has requested a hearing on the issuance of an administrative citation may withdraw said request upon written notice to the Authority. A withdrawal under this section shall constitute a forfeiture of any advance deposit of administrative penalty and costs and shall constitute a waiver of any right to challenge the underlying administrative citation. A withdrawal under this section shall also be a bar to judicial review of the administrative citation for failure to exhaust administrative remedies.

§ 6.2.6. Administrative order – administrative citations issued pursuant to § 6.2.

(a) Decision of the hearing officer. After considering all the testimony and evidence submitted at the hearing, the hearing officer shall determine if the responsible person is liable for the underlying violation by a preponderance of the evidence. The hearing officer shall issue a written administrative order, including findings regarding the existence of each violation and notice of the right to judicial review, at the hearing or within thirty (30) calendar days following completion of the hearing. The responsible person shall be served with a copy of the administrative order at the hearing or within ten (10) calendar days following its issuance. The administrative order shall be final upon service on the responsible person, subject only to judicial review as allowed by law.

(b) Penalty. If the hearing officer determines that the responsible person committed

Exhibit C

the violation alleged by a preponderance of the evidence, the hearing officer shall assess the administrative penalty specified in § 6.2.1 and any administrative costs established pursuant to subdivision (c) of this section. In cases of extreme hardship or in the interest of justice the hearing officer may reduce or suspend the administrative penalty specified in § 6.2.1. The hearing officer shall set a date the balance of the penalty and any administrative costs shall be due and payable, which date shall ordinarily be thirty (30) calendar days from date of service of the administrative order, unless for good cause the hearing officer extends such date. If the hearing officer finds that the administrative citation should not be sustained or that the amount of the administrative penalty should be reduced, the Authority shall refund the amount within thirty (30) calendar days of the service of the order.

(c) Administrative costs. The hearing officer may impose administrative costs, including any and all costs incurred by the Authority in connection with the matter before the hearing officer, including, but not limited to, investigation, staffing costs incurred in preparation for the hearing and for the hearing itself. In no case shall the cost of the hearing officer himself or herself be included in any costs assessed against the responsible person.

§ 6.2.7. Failure to pay administrative penalties and costs, and failure to comply with administrative order.

(a) Administrative penalties and costs assessed by the hearing officer shall be due by the date specified in an administrative order issued pursuant to § 6.2.6. Failure to pay the assessed administrative penalties or administrative costs specified in the administrative order may be enforced as a personal obligation of the responsible person, which shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers. Unpaid administrative penalties and costs may be reported to appropriate credit reporting agencies. In addition to all other means of enforcement, if the violation is in connection with real property, the Authority may place a lien on the real property which shall remain in effect until all the administrative penalties and costs, plus interest, are paid in full, and until responsible person achieves full compliance with any and all conditions in the administrative order.

(b) Late payment charges. Late payment charges of ten percent (10%) per month, simple interest on the delinquent amount, shall accrue and are payable. If the delinquent amount has not been paid within sixty (60) calendar days of the date set for payment then a twenty five percent (25%) nonpayment penalty shall be added to the principal amount due, and thereafter interest shall accrue on the delinquent amount plus the nonpayment penalty.

(c) Failure to pay administrative costs within the time allowed under this chapter shall constitute a violation of this code punishable as a misdemeanor and shall further be subject to collection as otherwise provided for administrative penalties herein.

(d) Lien procedure. Upon the responsible person's failure to pay administrative penalties and costs as ordered by the hearing officer or by the superior court, the Authority may record a judgment lien against responsible person's real property pursuant

to Code of Civil Procedure §§ 674 and 697.310, *et seq*.

§ 6.2.8. Judicial review. Any person subject to a decision of the hearing officer may obtain judicial review of the decision in the superior court pursuant to the provisions of California Government Code § 53069.4.

§ 6.3. Administrative compliance orders.

(a) Authorization. This section provides for the issuance of administrative compliance orders, as authorized pursuant to Government Code § 53069.4. In addition to any other legal remedies, including, but not limited to, criminal penalties, injunctive relief, specific performance, civil damages, and any other remedy which may be pursued by the Authority to address any violation of this Ordinance, the Chief Ranger, enforcement officer, or any park ranger, or other employee designated by the Chief Ranger, may issue a written compliance order for any violation of this Ordinance. Administrative penalties may accrue immediately upon issuance of a compliance order, subject to the provisions of Government Code § 53069.4(a)(2).

(b) Contents of administrative compliance order. A compliance order issued pursuant to this section shall contain the following information: the date and location of the violation; the section of this Ordinance violated and a description of the violation; all actions required to correct the violation; and the amount of the administrative penalty or penalties. At the discretion of the Chief Ranger or enforcement officer, or as required by Government Code § 53069.4(a)(2), the compliance order shall also indicate a reasonable time period after which administrative penalties will begin to accrue if compliance with the order has not been achieved. The responsible person shall remain liable for and shall pay all administrativecosts associated with the compliance order. Correction of underlying violation shall not absolve responsible person from this obligation.

(c) Willful violations. If the Chief Ranger or enforcement officer determines that a violation of this Ordinance giving rise to issuance of an administrative compliance order was done so willfully, daily administrative penalties shall begin to accrue upon issuance of compliance order.

(d) Compliance and failure to comply. If the Chief Ranger or the designated park ranger or enforcement officer determines that all violations have been corrected within the time specified in the compliance order or within any amended orders, the ranger shall so advise each party to whom the compliance order was addressed. If full compliance is not achieved within the time specified in the compliance order or within any amended orders, the Chief Ranger or the designated park ranger or employee shall schedule a hearing before the hearing officer.

(e) Administrative order by hearing officer. Upon consideration of evidence presented at the administrative hearing, the hearing officer shall issue a written administrative order, pursuant to this section. The administrative order of the hearing officer shall be final, subject only to judicial review as authorized by law. The hearing officer shall have continuing jurisdiction over administrative compliance orders until the underlying violation has been remedied or the matter has been otherwise resolved.

Exhibit C

§ 6.3.1. Hearing officer. All hearings on administrative compliance orders shall be heard and conducted by a hearing officer. The Executive Officer or the Executive Officer's designee shall designate a hearing officer for administrative hearings who shall not be the citing enforcement officer and who shall be an attorney licensed to practice law in the State of California or a retired judicial officer of the State of California. The employment, performance evaluation, compensation or benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative penalties or the rulings upheld, revised or otherwise issued by the hearing officer.

§ 6.3.2. Notice and time of hearing –administrative compliance order hearings. Written notice of hearing shall be served on any person or persons to whom the order was addressed pursuant to § 6.3 and shall contain the date, time, and place at which the hearing shall be conducted. The hearing shall be set for a date that is not less than fifteen (15) calendar days from the date of the notice of hearing. The hearing officer may approve a continuance of the hearing to any date for good cause.

§ 6.3.3. Hearing procedure.

(a) Evidence and testimony. All oral and written evidence presented at the hearing shall be presented under oath and under the penalty of perjury except that the administrative citation and any additional report submitted by the park ranger shall be admissible and shall constitute prima facie and presumptive evidence of the respective facts contained in those documents. At the hearing, the alleged responsible person shall have the opportunity to testify, present evidence, and to cross-examine witnesses concerning the administrative compliance order. The alleged responsible person may appear personally or through an attorney. Telephonic appearances may be allowed at the discretion of the hearing officer. Prehearing discovery is not authorized. The Authority and alleged responsible persons are authorized by this Ordinance to subpoena relevant witnesses and documents in accordance with policies and procedures established by the Governing Board of the Authority. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor violation of this Ordinance. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence, the hearing officer may consider and make findings in any manner which will provide a fair hearing, and may continue the hearing to obtain additional evidence. Unless otherwise required, the presence of the issuing ranger at the hearing is not mandatory.

(b) Hearing by written declaration. In lieu of personal appearance, any alleged responsible person subject to an administrative compliance order may elect to proceed with an administrative hearing by written declaration signed under penalty of perjury. The Executive Officer or the Executive Officer's designee shall prescribe the procedures to be followed when a hearing is conducted by written declaration.

(c) Failure to appear. The unexcused failure of any alleged responsible person to appear at the hearing after proper notice or, in the alternative, to present written or demonstrative evidence shall constitute an admission of the violation by the alleged responsible person and an exhaustion of administrative remedies that may bar judicial review. Refusal to participate in said hearing through one of the methods prescribed

herein or engaging in behavior disruptive to the hearing may, at the sole discretion of the hearing officer, constitute failure to appear for the purposes of this section.

(d) Withdrawal of hearing request. Any person who has requested a hearing on the issuance of an administrative compliance order may withdraw said request upon written notice to the Authority. A withdrawal under this section shall constitute a forfeiture of any advance deposit of administrative penalty or costs and shall constitute a waiver of any right to challenge the underlying administrative compliance order. A withdrawal under this section shall also be a bar to judicial review of the administrative citation for failure to exhaust administrative remedies.

§ 6.3.4. Decision and administrative order of the hearing officer.

(a) Decision of the hearing officer. The hearing officer shall consider any written or oral evidence consistent with ascertainment of the facts regarding the violation and compliance with the order. Within a reasonable time following the conclusion of the hearing, the hearing officer shall decide the issues at question, based on a preponderance of the evidence presented at the hearing, and make findings and issue a decision regarding the existence of the violations, the extent of compliance with the compliance orders issued by the Authority, and the amount of applicable administrative penalties, costs, and further action required.

(b) Findings – violations. The hearing officer shall issue written findings on each violation of this Ordinance alleged by the Authority. The findings shall be supported by evidence received at the hearing. If the hearing officer finds by a preponderance of the evidence that a violation has occurred and that the violation was not corrected within any applicable time period specified in the compliance order, those findings shall be included in the administrative order. If the hearing officer finds that no violation has occurred or that the violation was corrected within the time period specified in the compliance order, the hearing officer shall issue a finding of those facts in the administrative order.

(c) Findings – penalties, costs and corrections. If the hearing officer determines that a violation occurred which was not corrected within the time specified in the compliance order, the administrative order shall impose on the responsible persons all of the following, if applicable:

(1) Administrative penalties as provided in § 6.3.6, and
(2) Administrative costs as provided in § 6.3.7.

§ 6.3.5. Administrative penalties.

(a) The hearing officer shall impose administrative penalties for each day during which a violation is maintained after the date when compliance was ordered to be achieved. The amount of the daily administrative penalty shall be determined pursuant to § 6.2.1. The hearing officer may take any or all of the following factors into consideration:

(1) The duration of the violation;
(2) The frequency, recurrence, and number of violations, related or unrelated, by the same responsible person;
(3) The seriousness of the violation;

Exhibit C

(4) The good faith efforts of the responsible person to come into compliance;
(5) The economic impact of the violation on the community, and
(6) Such other factors as justice may require.

(b) Administrative penalties imposed by the hearing officer shall accrue from the date specified in the compliance order and shall cease to accrue on the date the violation is corrected as determined by the enforcement officer. Administrative penalties assessed by the hearing officer shall be due by the date specified in the administrative order. The Chief Ranger or enforcement officer may suspend the imposition of applicable penalties for any period of time during which:

(1) The responsible person has filed for necessary permits;
(2) Such permits are required to achieve compliance, and
(3) Such permit applications are actively pending before the city, state, or other appropriate governmental agency.

(c) Willful violations. Pursuant to § 6.3(c), if the hearing officer determines, on a preponderance of the evidence, that a violation of this Ordinance giving rise to a compliance order under this chapter was a willful act, the daily administrative penalties shall be deemed to have begun to accrue as of the date of the compliance order.

(d) Failure to correct. If the violation is not corrected as specified in the administrative order, administrative penalties shall continue to accrue on a daily basis until the violation is corrected.

(e) Compliance with administrative order. If the responsible person gives written notice to the enforcement officer that the violation has been corrected and if the enforcement officer finds that compliance has been achieved, the enforcement officer shall deem the date of that final inspection to be the date on which the enforcement officer finds that the violation was corrected.

§ 6.3.6. Administrative costs. In addition to any administrative penalties imposed, the hearing officer shall also assess appropriate administrative costs against the responsible person. Administrative costs may include any and all costs incurred by the Authority in connection with the compliance order and the administrative hearing, including, but not limited to costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and costs for all re-inspections necessary to enforce the compliance order. Failure to pay administrative costs within the time allowed under this Chapter shall constitute a violation of this Ordinance punishable as a misdemeanor and shall further be subject to collection as otherwise provided for administrative penalties herein.

§ 6.3.7. Failure to pay administrative penalties and costs and failure to comply with administrative order.

(a) Administrative penalties and costs assessed by the hearing officer shall be due by the date specified in an administrative order. Failure to pay the assessed administrative penalties and administrative costs specified in the administrative order may be enforced as a personal obligation of the responsible person, which shall remain in effect until all of the administrative penalties, administrative costs, and interest are paid in

full and shall be collectable by the Authority by all lawful means of collection, including the utilization of third party collections providers. Unpaid administrative penalties and costs may be reported to appropriate credit reporting agencies. In addition to all other means of enforcement, if the violation is in connection with real property, the Authority may place a lien on the real property, which shall remain in effect until all the administrative penalties and costs, plus interest, are paid in full, and until responsible person achieves full compliance with any and all conditions in the administrative order.

(b) Late payment charges. Late payment charges of ten percent (10%) per month, simple interest on the delinquent amount, shall accrue and are payable. If the delinquent amount has not been paid within sixty (60) calendar days of the date set for payment then a twenty five percent (25%) nonpayment penalty shall be added to the principal amount due, and thereafter interest shall accrue on the delinquent amount plus the nonpayment penalty.

(c) Failure to pay administrative costs within the time allowed under this chapter shall constitute a violation of this code punishable as a misdemeanor and shall further be subject to collection as otherwise provided for administrative penalties herein.

(d) Lien procedure. Upon the responsible person's failure to pay administrative penalties and costs as ordered by the hearing officer or by the superior court, the Authority may record a judgment lien against responsible person's real property pursuant to Code of Civil Procedure §§ 674 and 697.310, *et seq.*

§ 6.4. Failure to comply with subpoena. Pursuant to any provision of this Chapter, no person shall fail to comply with a subpoena issued for the purposes of an administrative hearing. Violation of this section is punishable pursuant to § 5.0(a) and § 6.2.1(b)(2).

§ 6.5. Judicial review. Any person subject to a decision of the hearing officer under this Chapter may obtain judicial review of the decision in the superior court pursuant to the provisions of California Government Code § 53069.4.

Exhibit C

Chairperson

AYES: Peterson, Hasenauer, Daniel, Lange

NOES: none

ABSENT: none

ABSTAIN: none

I HEREBY CERTIFY that the foregoing Ordinance was adopted at a regular meeting of the Governing Board of the Mountains Recreation and Conservation Authority, duly noticed and held according to law, on the 1st day of June, 2016.

Date: 6/1/16

Executive Officer

ATTESTED by the Secretary of the Board.

Date: 6/1/16

Board Secretary

January 16, 2020 – Item 11

RESOLUTION 2020-02

RESOLUTION OF THE WATERSHED CONSERVATION AUTHORITY TO RATIFY A MEMORANDUM OF UNDERSTANDING/MANAGEMENT AGREEMENT WITH VASQUEZ RANCH LLC FOR VASQUEZ OVERLOOK (AIN 8684-024-001).

WHEREAS, the Watershed Conservation Authority (WCA) has been established to facilitate joint projects between the Rivers and Mountains Conservancy and Los Angeles County Flood Control District; and

WHEREAS, The Watershed Conservation Authority has been established to focus on projects which will provide open space, habitat restoration, and watershed improvement projects in both the San Gabriel and Lower Los Angeles Rivers watershed; and

WHEREAS, this action authorizes the Executive Officer or designee to negotiate and enter into professional services contracts for project support management; and

WHEREAS, this action is exempt from the environmental impact report requirements of the California Environmental Quality Act (CEQA).

Therefore be it resolved that the WCA hereby:

1. **FIND**S that this action is consistent with the purposes and objectives of the WCA.
2. **FINDS** that the actions contemplated by this resolution are exempt from the environmental impact report requirements of the California Environmental Quality Act.
3. **ADOPTS** the staff report dated January 16, 2020.
4. **RATIFIES** a Memorandum of Understanding/Management Agreement with Vasquez Ranch, LLC for Vasquez Overlook (AIN 8684-024-001).

~ End of Resolution ~

//

Motion: _____ Second: _____

Ayes: _____ Nays: _____ Abstentions: _____

Passed and Adopted by the Board of the

Resolution 2020-02

WATERSHED CONSERVATION AUTHORITY
On January 16, 2020

_____
Herlinda Chico
Governing Board Chair

ATTEST:_____
David Edsall, Jr.
Deputy Attorney General